

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEVON TERRELL ABNEY,

Plaintiff,

v.

Case No. 2:20-cv-10415

District Judge Gershwin A. Drain

Magistrate Judge Anthony P. Patti

DOLGENCORP, LLC,

Defendant.

**ORDER GRANTING DEFENDANT’S MOTION TO TAKE PLAINTIFF’S
DEPOSITION (ECF No. 19) AND EXTENDING DISCOVERY AND
DISPOSITIVE MOTION DEADLINES**

This matter came before the Court for consideration of Defendant’s motion to take Plaintiff’s deposition (ECF No. 19), Plaintiff’s response in opposition (ECF No. 22), and Defendant’s reply brief (ECF No. 24). Judge Drain referred this motion to me for a hearing and determination. (ECF No. 20.) As a result of the COVID-19 pandemic, a hearing via Zoom technology was held on July 9, 2021, at which counsel appeared and the Court entertained oral argument regarding the motion.

Upon consideration of the motion papers and oral argument, and for all of the reasons stated on the record by the Court, which are hereby incorporated by reference as though fully restated herein, Defendant’s motion to take Plaintiff’s deposition (ECF No. 19) is **GRANTED** as follows:

- Plaintiff must complete, sign, and mail to opposing counsel the three authorizations for release of information included in ECF No. 24-2 (Exhibit A to Defendant's reply brief) by **Wednesday, July 14, 2021**.
- Plaintiff must immediately locate and send to opposing counsel by e-mail those materials he received from the City of Detroit through his FOIA request. Should Defendant fail to receive the e-mailed materials from Plaintiff (which Plaintiff represented at the hearing would come from either or both of the following e-mail accounts: crights.amend@gmail.com or at7412@yahoo.com), it may issue a subpoena for the materials from Attorney Shaun Godwin (shaun@godwinlegal.com) directly.
- Although Plaintiff has missed the deadline for filing his amended complaint set forth in the Court's June 21, 2021 opinion and order (ECF No. 21, PageID.287-288), he may do so by **Tuesday, July 20, 2021**. Should he fail to timely file the amended complaint in compliance with the parameters set forth in the Court's order (ECF No. 21, PageID.287-288), any untimely or non-conforming version that gets filed will be stricken from the record.
- Plaintiff's request for a written deposition pursuant to Fed. R. Civ. P. 31 is **DENIED**. Plaintiff must sit for a deposition, held via Zoom technology, **between Wednesday, July 21, 2021, and the** discovery deadline, which the Court will extend to **Tuesday, September 14, 2021**.
- The Court will also **EXTEND** the dispositive motion deadline to **Wednesday, October 6, 2021**. No other scheduling order dates will be altered at this time.

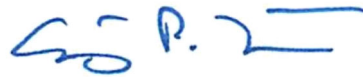
Finally, the Court awards no costs as technical issues, misunderstandings regarding whether information had been sent, incorrect releases, and the filing of Plaintiff's amended complaint before his deposition contributed to the necessity of the instant motion. However, should Defendant need to file any additional motions

to compel, the Court may award attorney fees and sanctions pursuant to Fed. R.

Civ. P. 37. **Failure to comply with this order may result in the sanctions specified in Fed. R. Civ. P. 37(b)(2) and (d)(3), up to and including a dismissal of this case.**

IT IS SO ORDERED.

Dated: July 12, 2021



Anthony P. Patti
UNITED STATES MAGISTRATE JUDGE